

Claimant testified he did not initially tell the respondent about his work-related accident because he feared losing his job and health insurance benefits. Although in some instances a reasonable fear of discharge might constitute just cause in excusing an injured worker from providing notice within ten days of the date of accident, the evidence presented in this proceeding does not support that finding. The main thrust of claimant's argument is that he had sustained three minor work-related injuries in the six-month period he had worked for the respondent, and that his supervisor had threatened to fire him if he

could not do his job. Claimant testified he told the respondent he was injured at home rather than at work because he thought his job was in jeopardy.

The Administrative Law Judge did not accept that explanation as being reasonable or credible. When claimant initially sought medical treatment on June 21, 1995, the doctor placed him in physical therapy and restricted him to light duty. Claimant then began a three- or four-day period where he attended physical therapy in the morning and afterwards went to work restricted to light duty. Therefore, despite the fact that claimant's job was affected by his back condition, he still did not advise respondent that he had sustained a work-related injury within ten days of its occurrence. The Administrative Law Judge had the opportunity to observe the claimant testify and assess his demeanor and credibility. In this instance the Appeals Board gives some deference to the Judge's impressions. Based upon the entire record, the Appeals Board finds that claimant has failed to establish just cause to extend the period of providing timely notice of accident under K.S.A. 44-520.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge Bruce E. Moore dated December 11, 1995 should be, and hereby is, affirmed.

IT IS SO ORDERED.

Dated this ____ day of February 1996.

BOARD MEMBER _____

BOARD MEMBER _____

BOARD MEMBER _____

c: P. Kelly Donley, Wichita, Kansas
Robert A. Anderson, Ellinwood, Kansas
Bruce E. Moore, Administrative Law Judge
Philip S. Harness, Director